



**CITY OF NEWPORT BEACH  
ENVIRONMENTAL QUALITY AFFAIRS  
COMMITTEE**

**AGENDA**

**MONDAY**

**January 13, 2003**

**LOCATION:**

**~~POLICE DEPARTMENT AUDITORIUM~~ CHANGED TO**

**CITY COUNCIL CHAMBERS**

**7:00 p.m.**

**3300 Newport Boulevard**

Roll Call

1. Minutes of December 16, 2002
2. Discussion of John Wayne Settlement Agreement and Correspondence from the FAA—Robert Burnham, City Attorney
3. Report of Subcommittee on Costa Mesa Plaza Residence Project Draft Environmental Impact Report
4. Report from Communications Subcommittee: EQAC Material on City Website—
5. Report from EQAC Member on GPUC
6. Report from EQAC Members on GPAC
7. Report on LCP and information on Subcommittee
8. Council Member Reports
9. Public Comments
10. Future Agenda Items – February meeting date.

**NEXT MEETING DATE:**

**February ?, 2003**

**LOCATION:**

**Police Department Auditorium  
870 Santa Barbara**



## CITY OF NEWPORT BEACH ENVIRONMENTAL QUALITY AFFAIRS COMMITTEE

Draft Minutes 12-16-02

Minutes of the Environmental Quality Affairs Citizens Advisory Committee held at the Newport Beach Police Department Auditorium, 3300 Newport Boulevard, on, December 16, 2002.

### Members Present

Robert Hawkins, Chairperson  
Steve Bromberg Mayor Pro Tem  
John Heffernan, Council Member  
Gary Borquez  
Gus Chabre  
Laura Dietz  
Barry Eaton, Vice Chairman  
Ray Halowski  
Carol Hoffman  
Tom Hyans

Elaine Linhoff  
Phillip Lugar  
Jim Miller  
Marge Pantzar  
Nancy Raney  
Richard Rivett  
Cris Trapp  
Louis Von Dyl  
Christopher Welsh  
Jennifer Wynn

### Staff Representatives

Sharon Wood, Assistant City Manager

### Members Not Present

Barry Allen  
Jack Callahan, Jr.

Gale Demmer  
Richard Oberriter

The meeting was called to order at 7:20 p.m.

1. Elaine Linhoff **moved** to approve the minutes with change in item 10. Barry Eaton seconded the amended **motion**. Tom Hyans opposes. **Motion** passes.

2. IRWD Subcommittee Report on IRWD's NOP on the NTS Project

Chris Trapp **moves** approval of draft. Ray Halowski seconded the **motion**. **Motion** passes.

- 2a. Addendum to John Wayne Airport EIR No. 582 – General Discussion

Barry Eaton distributed letter to Pilot from Bonnie O'Neil.

Mr. Eaton expressed concern about reconfiguration of aircraft types in modified Settlement Agreement and increase in number of residences affected.



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Mr. Eaton and the Airport Working Group still think the agreement is worth the increase, if the FAA approves the letter as drafted by Orange County, because it will reduce ATA's leverage with the FAA.

Mayor Bromberg said that the City Council was not happy with this modification, but it is the best deal the City will get with FAA letter. If we do not get the letter, we may be in court with ATA.

3. Report from EQAC Members on GPUC

Mr. Eaton reported on the December 2<sup>nd</sup> meeting.

4. Report from EQAC Members on GPAC

Mr. Lugar reported on the December 2<sup>nd</sup> meeting.

5. LCP Report

Mayor Bromberg suggested that EQAC form a subcommittee to review the draft Land Use Plan. The following volunteered to serve on the subcommittee:

Chris Welsh  
Jennifer Winn  
Elaine Linhoff  
Gus Chambre  
Laura Dietz

Cris Trapp  
Ray Halowski  
Phillip Lugar  
Jim Miller

Chairman Hawkins will appoint the members to serve on the committee.

Council Member Reports

Mayor Bromberg advised that Jack Callahan resigned from EQAC.

6. Public Comments

None



# **CITY OF NEWPORT BEACH ENVIRONMENTAL QUALITY AFFAIRS COMMITTEE**

**Draft Minutes 12-16-02**

7. Future Agenda Items

Costa Mesa Plaza Residence Environmental Impact Report

LCP

EQAC material on City website – report from Communications Subcommittee

8. Chairman Hawkins adjourned the meeting at 8:30 p.m.

## M E M O R A N D U M

**To:** Mayor Steve Bromberg and Members of the City Council  
City of Newport Beach

**Cc:** Homer Bromberg, City Manager, City of Newport Beach

**From:** Environmental Quality Affairs Citizens Advisory Committee  
City of Newport Beach

**Subject:** The City of Costa Mesa's Draft Environmental Impact Report ("DEIR") for  
the 1901 Newport Plaza Residences Project (the "Project")

**Date:** January 6, 2003

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Thank you for the opportunity to comment on the DEIR for the captioned Project located at 1901 Newport Blvd. We offer the following comments in the hopes of improving the environmental analysis and, ultimately, the Project, if any.

**1. Summary of Concerns:**

We have the following concerns in connection with the Project:

1. The Project description requires refining including discussions of the Project location, its proximity to the City of Newport Beach, and the character of the mixed use development.
2. The environmental analysis uses an erroneous method in its cumulative impacts analysis.
3. The DEIR may understate the impacts of the Project on earth resources, water quality and hydrology, land use and planning, aesthetics, traffic and circulation, public services and utilities, and long term impacts.

**2. Introduction: EIR/EIS and Legal Standards.**

An EIR constitutes the heart of CEQA: An EIR is the primary environmental document which:

"... serves as a public disclosure document explaining the effects of the proposed project on the environment, alternatives to the

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project, and ways to minimize adverse effects and to increase beneficial effects."

CEQA Guidelines section 15149(b). See California Public Resources Code section 21003(b) (requiring that the document must disclose impacts and mitigation so that the document will be meaningful and useful to the public and decision-makers.)

Further, CEQA Guidelines section 15151 sets forth the adequacy standards for an EIR:

"An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which takes account of the environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith attempt at full disclosure."

Further, "the EIR must contain **facts and analysis**, not just the agency's bare conclusions or opinions." Concerned Citizens of Costa Mesa, Inc. v. 32nd District Agricultural Association, (1986) 42 Cal. 3d 929.

In addition, an EIR must specifically address the environmental effects and mitigation of the Project. But "[t]he degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR." CEQA Guidelines section 15146. Some projects such as general plan adoption deal with general issues; but CEQA also applies to small projects which require merely a conditional use permit. The analysis in an EIR must be specific enough to further informed decision making and public participation. The EIR must produce sufficient information and analysis to understand the environmental impacts of the proposed project and to permit a reasonable choice of alternatives so far as environmental aspects are concerned. See Laurel Heights Improvement Association v. Regents of the University of California (1988) 47 Cal. 3d 376.

### 3. Section 2: Project Description:

The Project description is one of the key parts of any environmental document and is particularly important for an environmental impact report. As the County of Inyo Court noted long ago,

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"Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the 'no project' alternative) and weigh other alternatives in the balance. An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR."

County of Inyo v. City of Los Angeles (1977) 71 Cal. App. 3d 185, 199. In addition, the CEQA Guidelines section 15124 requires that an EIR describe the project "in a way that will be meaningful to the public, to the other reviewing agencies, and to the decision-makers." Discussion, Guidelines section 15124.

Section 2.1 addresses the location of the Project. Although this section discusses Newport Blvd., it fails to discuss the location of the Project in relation to other cities, e.g. the City of Newport Beach, various utilities including the Irvine Ranch Water District, and other special districts. The DEIR should include a discussion of the Project location and its relation to other municipalities and special districts.

The Project Description refers to 161 single-family residences; the public will infer that the units would be individually owned. However, in the Public Services and Utilities section, under the Parks and Recreation discussion (Section 3.8.8), the DEIR states: "If the Plaza Residences project site is subdivided, the project applicant would be responsible for the dedication of 1.5 acres of parkland within the City of Costa Mesa or payment of parkland in-lieu fees." This statement implies an uncertainty as to whether the project will be condominiums or apartments. The DEIR Project Description should be revised to clarify this issue regarding the Project subdivision.

The Project Objectives are confusing and may mislead the public regarding the character of the Project. The second objective states that one of the objectives is:

"Effectively integrate and market the existing office complex and proposed residential component as a mixed-use development . . . . The proximity of residential uses to the existing office/commercial building and the nature of the proposed shared parking arrangement may encourage employees to reside in this development, thereby meeting the intent of a mixed-use development."

DEIR, section 2.2, page 2-1 through 2-2. The objective is misleading: it assumes that the Project is a "mixed-use development" and then "hopes" that the benefits of mixed-use-residential users

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are commercial users— will result. The two separate buildings and the shared parking lot belie this goal: the determining factor for both commercial and residential will be economic.

Further, this and other goals mislead the public into thinking the existing office space is part of the Project: the Project is simply a very dense residential development with a large parking structure which will be shared with the office building.

Finally, our comments on the Notice of Preparation for the DEIR addressed the problem of the “mixed use” character of the Project. The DEIR fails to clarify or address these concerns. The DEIR should be revised to describe the Project and the “mixed use” character clearly, discuss the “office” component of the Project, identify clearly the parking demand of the residential component and the parking demand of the office component, and provide adequate mitigation for any such impacts.

**4. Section 3: Environmental Analysis:**

**a. Methodology:** Section 3 discusses the organization of the environmental analysis. This discussion indicates that each section of the analysis contains, among other things, a cumulative impacts analysis. This discussion includes the essential elements of the cumulative impacts analysis set forth in Guidelines section 15130(b)(1): the cumulative impacts analysis must include: “(A) a list of past, present and probable future projects . . . or, (B) a summary of projections contained in an adopted general plan . . . .”

Although the DEIR states that “the EIR’s cumulative analysis assumes buildout of the City’s 2000 General Plan,” neither this section nor any of the sections in Section 3 contains a summary of projections contained in the adopted general plan. The DEIR and each subsection in Section 3 should be revised to meet the requirements of Guidelines section 15130(b)(1).

**b. Earth Resources:** Section 3.1.1 discusses existing conditions of “Earth Resources” of the Project site. Among other things, this section notes that “the upper 5 to 15 feet of the soils have a minor potential for soil collapse.” Further, this section also states that:

“Groundwater, in the form of a perched water table, was encountered in all of the hollow-stem-auger borings drilled during the Leighton and Associates investigation.”

Further, this section indicates that “the depth of the perched groundwater table may fluctuate due to the landscape irrigation. However, impacts analysis in this section fails to discuss the Project’s impacts on this perched groundwater table. The existing conditions of the Project site is a paved parking lot; the Project will likely result in an increase of pervious surfaces and thereby increase in the perched groundwater table. Further, the Project includes subterranean

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parking; the FEIR should include a discussion of the Project's potential impacts from this subterranean feature and provide appropriate mitigation.

In addition, this section notes that liquefaction may occur when three conditions exist: (1) shallow groundwater, e.g. a perched water table; (2) low density, non-cohesive soils, e.g. soils subject to collapse; and (3) high-intensity ground motion. Although this impacts analysis of this Section concludes that the Project site has a low potential for liquefaction, it appears from the analysis that liquefaction may occur when an earthquake would occur.

Finally, as indicated above, the cumulative impacts analysis is inadequate. Although it makes mention of the City of Costa Mesa 2000 General Plan, it fails to provide "a summary of projections contained in an adopted general plan . . ."

The DEIR should be revised to include the appropriate analysis regarding the Project's impacts on earth resources including the impacts of the Project on the perched groundwater table, the Project's impacts on the potential for liquefaction, and an appropriate cumulative impacts analysis with a summary of projections contained in the general plan. To the extent that such analysis reveals additional impacts, the revised DEIR should propose appropriate mitigation.

**c. Hydrology and Water Quality:** Section 3.2.1 discusses existing hydrology and water quality of the Project site. This section states: "All storm water from the site eventually drains off-site and downstream from Harbor Boulevard and Bernard Street to the **Newport Bay.**" DEIR, section 3.2.1, page 3.2-2. Further, this section recognizes that "Stormwater runoff from asphalt-paved parking lots is categorized by regulatory agencies as non-point source runoff, which typically contains motor oil, metals and other toxic substances from automobiles." Id.

The impacts analysis concludes that, although the Project will include irrigation and eliminate a large parking lot, the Project will not result in any change in hydrology. As indicated above, this analysis is at best truncated: as indicated above, the Project will likely change hydrology including more irrigation and may result in an increase in pervious surfaces. At the very least, the analysis must justify its conclusion that the Project will not increase pervious surfaces.

In addition, given the increased density of the development, the Project will result in more people using the Project site which may increase water quality impacts of the Project. The impacts analysis notes that the Project applicant is responsible for obtaining coverage under the Drainage Area Master Plan adopted by the County. However, the City of Newport Beach has also adopted storm water requirements: the impacts analysis must refer to these requirements and compliance with the City's requirements.

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Also, our comments on the NOP questioned the areas affected by the Project. The NOP indicated that the Project could affect either the Newport Bay or the Santa Ana River. As indicated above, the DEIR is clear: the Project will drain to Newport Bay. The NOP also assumed that the Project would not exceed the capacity of the storm drain system which flows into the City of Newport Beach before discharge into the Bay. The DEIR should discuss the capacity of the storm drain system to ensure that the Project demands will not exceed the capacity of the storm drain system into the City of Newport Beach and into the Bay.

**d. Land Use and Planning:** Section 3.3 addresses the Project's affects on land use and planning. Our comments on the NOP and the Checklist asked about the potentially significant impact of the Project on land use plans "adopted for the purpose of avoiding or mitigating an environmental effect." The DEIR fails to explain this impact. The Final EIR should address this issue, identifying the mitigation plans, the Project's potential impacts to those plans and providing mitigation. Without identifying the potentially affected land use plans, it is not possible to determine the possible impacts to the City of Newport Beach.

**e. Aesthetics:** Section 3.4 discusses the Project's impacts on aesthetic resources. The most significant negative aesthetic impact of the Project is the shade and shadows caused by the four story buildings during the winter months on the surrounding residences and businesses. The DEIR contains some analysis of this impact. We note that Alternative 1 will not have this aesthetic impact due to the reduced size of the Project. The FEIR should review and revise this Alternative discussion to consider the appropriate scope of the Project and perhaps implement Alternative 1.

**f. Transportation and Circulation:** Section 3.5 addresses the Project's impacts on transportation and circulation. The DEIR recognizes that the Project may have a potentially significant impact on the 19th and Newport intersection (Table 3.5-4 on page 3.5-10). However, the DEIR proposes mitigation of such impacts by paying some unspecified sum as "...its pro-rata share of the costs..." towards improvement of this intersection which the City of Cosa Mesa is currently studying. However, the DEIR makes no commitment to implement such improvements. See DEIR page 3.5-16. At a minimum, if the finding of no remaining significant impact after mitigation is to be justified, the Final EIR should specify the amount to be contributed, and the City should commit to implementing the project. Otherwise, the DEIR is incorrect: the Project will have a significant impact, which will affect NB visitors, employees and residents that have to travel through this intersection to reach the freeway system.

Further, section 3.5 omits any explanation whatever of how the existing unacceptable LOS E at Newport South and Victoria becomes way under threshold (LOS A) by 2005 (table 3.5-3 on page 3.5-9). Although the Appendices may answer this question, the DEIR should provide a clear explanation so that the public may understand the Project and its potential impacts. <sup>9</sup>

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In connection with the DEIR's cumulative impacts analysis, as indicated above, the DEIR analyzed the future situation both with and without all of the improvements called for in Costa Mesa's General Plan Circulation Element. However, the DEIR fails to consider adequately that the plan includes the southerly extension of the Route 55 Freeway as well as the 19th Street bridge. Although these projects may lessen cumulative impacts, the omission of such project may exacerbate the Project's cumulative impacts. It is especially noteworthy that the traffic congestion (LOS) is FAR less severe at Newport and 19th with these improvements (including the 19th Street bridge) than without them. Likewise, there is also a lower level of congestion at Harbor and 19th. (Tables 3.5-4 and 3.5-5, on pages 3.5-10 and 3.5-12, respectively.) As discussed above, the cumulative impacts analysis must discuss and summarize all of the projects allowed by the General Plan.

Also, with regard to this section, it should be noted that no effort whatever was made to analyze the intersections of Harbor and Newport or 17th and Newport, despite the project's proximity to these intersections, their existing congestion, their importance to Newport Beach commuters, and Newport Beach's response to the NOP asking that these intersections be analyzed. See The FEIR should include an analysis of the Project's impacts on such intersections and propose mitigation for any such impacts.

Finally, the DEIR notes that the Project is underparked and seeks a variance from the City of Costa Mesa's parking requirements. The DEIR suggests that a variance may be warranted because of the Project's characteristics. Further, we understand that the City has recently approved a large nightclub in the basement of the Project's commercial component which shares parking with the Project. Given the Project's impacts on parking, the recently approved nightclub and the underparked Triangle Square, the FEIR should provide the proper analysis of the Project's parking impacts and provide appropriate mitigation.

**g. Noise:** Section 3.7 addresses the Project's noise impacts. Although the Project may have no direct noise impacts on the City of Newport Beach, the Project will likely have potentially significant noise impacts on the units closest to both Newport and Harbor Boulevards. However, the DEIR proposes mitigation only for interior noise. No mitigation whatever is specified for the balconies that face both these highways, even though an outdoor standard (65 CNEL) is specified in both the Costa Mesa City Code, and in the DEIR's Threshold of Significance for noise effects (last bullet point on page 3.7-7). Yet, the DEIR declares that there is no remaining significant noise impact after mitigation. We are concerned that, given the above, the DEIR erroneously concluded that the Project will have no significant noise impacts. The FEIR should correct this error.

**h. Public Utilities:** In our comments on the NOP, we stated that "(t)he DEIR should analyze emergency fire and police protection service impacts to the City of Newport Beach pursuant to any Mutual Aid Pacts that exist between Newport Beach and Costa Mesa ..." Under the Police Protection existing conditions discussion (Section 3.8.2), the DEIR

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states that "the City of Costa Mesa participates in a mutual aid program set forth by the Orange County Chiefs of Police and Sheriff's Association" for the purpose of providing "organized inter-agency assistance and cooperation during local police incidents." However, there is no further discussion of Project or cumulative impacts to this mutual aid program, particularly on the City of Newport Beach. The FEIR should correct this omission, and provide analysis and discussion of the Project's impacts on such resources.

Also, under the Fire Protection existing conditions discussion (Section 3.8.3), the DEIR states that "(t)he City also participated in a 'Central Net' Joint Powers program with the cities of Newport Beach, Fountain Valley, and Huntington Beach." This program "provides mutual aid dispatch of fire apparatus across city boundaries during major and minor emergencies." Here, again, the DEIR provides no further discussion of Project or cumulative impacts to this mutual aid program, particularly on the City of Newport Beach. The FEIR should again correct this omission and provide analysis and discussion of the Project's impacts on such resources.

As to Wastewater Service (Section 3.8.5), the DEIR states that "the applicant is proposing to redirect sewer flows from the proposed residential development to the sewer system in Newport Boulevard (instead of using Bernard Street)." The DEIR then bases its analysis on this assumption. The DEIR states that the Project's estimated flows "would marginally exceed design capacity" but that existing flows are less than design capacity flows. Therefore, the DEIR concludes, no significant impacts are anticipated. It is unclear whether redirecting the flow is an option provided by the Costa Mesa Sanitary District. It is also unclear what impacts redirecting the flow will have on future projects that would be serviced by the Newport Boulevard sewer system. The FEIR should clarify this analysis, explain any Project related impacts and, if necessary, propose appropriate mitigation.

As to Parks and Recreation facilities, the DEIR concludes that the Project will have no impact. However, given the density of the Project and the Project's elimination of a park on Harbor Blvd., the Project will likely have an impact on Parks and Recreation facilities in the City of Newport Beach. The FEIR should revise the impacts analysis and propose appropriate mitigation for any such impacts.

## **5. Long Term Implications:**

The DEIR notes that the Project will not have growth inducing impacts: "The proposed project would be considered "in-fill" development because the site is surrounded by existing developed areas." However, this characterization is misleading: the Project may have impacts precisely because it is located in a developed area: For instance, as indicated above, if utilities are at capacity, an in-fill project may exceed the capacity of the system. The FEIR must analyze the Project's long term impacts on public services, parks, parking and transportation resources.

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